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HMOs Ask: Will That Be Spanish Or Chinese

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In just six months, Californians with limited English-speaking skills will be entitled to communicate with their health plans, doctors, pharmacists and other medical professionals in a language they understand, whether it's Spanish or Arabic.

The onus falls on health plans, which must start in January 2009 providing interpretation services in any language in which the member of a commercial plan requests it and to translate vital documents into the top spoken languages among their members.

"It is a big push for health plans; this is a big effort. Some health plans are having to make major changes," said Nicole Kasabian Evans, vice president of communications for the California Association of Health Plans, or CAHP.

Early projections from the association put the cost of compliance at an estimated $12 million to $25 million. The association didn't provide updated figures.

Plans were required to submit their plans for implementing the language assistance requirements by July 1 to the state Department of Managed Health Care (DMHC). The department is reviewing those plans now for compliance.

Years In Coming. HMOs have been on notice since 2003 that they would have to offer language interpretation and written translation services to their members. That's when the state passed the first and most comprehensive law in the nation addressing the language needs of commercial health plan members.

There are an estimated 6 million to 7 million individuals living in California who have limited proficiency in the English language, according to DrTango, a communications company that is consulting with health plans to implement the changes. More than 40 percent of Californians don't speak English at home, Dr Tango reports.

Implementation of Senate Bill 853 was held up for years, partly the result of a moratorium on regulations enacted by the Gov. Arnold Schwarzenegger administration after he was elected governor in 2003. Then the state had to formulate regulations.

"We were actually pretty upset that it took so long. We've gotten over it because we've been working so heavily on it, but we were really disappointed," said Marty Martinez, policy director of the California Pan-Ethnic Health Network, or CPEHN, which sponsored the original legislation.

After the moratorium on the regulations was lifted, the department held about 50 meetings with stakeholders to work out various issues, said Lynne Randolph, department spokeswoman. Then there were two public hearings before the department finalized its regulations.

LANGUAGE THRESHOLD CRITERIA

Health plans with enrollment of 1 million or more:

Shall translate vital documents into top two language other than English, and additional languages when 75 percent or 15,000 of the commercial enrollee population, whichever number is less, indicates preference for translation into that language.

Health plans with enrollment of 300,000 up to 1 million:

Shall translate vital documents into top one language other than English, and additional languages when 1 percent or 6,000 of the commercial enrollee population, whichever number is less, indicates preference for translation into that language.

Health plans with enrollment of less than 300,000:

Shall translate vital documents into a language other than English when 3,000 or more or 5 percent, whichever is less, of the commercial enrollee population indicates preference for translation into that language.

Source: Paraphrased from legislative language of Senate Bill 853 (Note: The enrollment totals exclude Medi-Cal and Healthy Family membership)

Wide Impacts. Some 107 health plans licensed by the DMHC, including HMOs and two PPOs, both full service and specialty, are affected by the law. It requires them to translate vital documents—such as denial letters and explanation of benefits—into at a minimum the top one or two languages other than English spoken by their members—depending on size thresholds established by law.

If a health plan has more than 1 million members, it must translate materials into the top two non-English languages spoken by its members. Only one language is required for plans from 300,000 to 1 million members. For those under 300,000 enrollees, the law requires translation when 3,000 or more, or 5 percent—whichever is less—of the commercial enrollee population indicates a preference for translation into that language.

Health plans also have to arrange to have the spoken word interpreted into any language requested, and it's left to plans discretions how to do that, which could include in-person interpreters or contracting with a language call center to do phone-based interpretations.

"There's no requirement saying you have to have an interpreter there sitting in the waiting room just waiting for a patient

TOP 10 NON-ENGLISH LANGUAGES SPOKEN IN CALIFORNIA

Language	No. of Speakers
1. Spanish	2,841,237
2. Chinese	265,269
3. Vietnamese	150,330
4. Korean	114,097
5. Tagalog	55,894
6. Armenian	44,245
7. Russian	37,798
8. Japanese	33,319
9. Persian	24,807
10. Punjabi	24,431

Source: California Pan-Ethnic Health Network

to come in," Randolph said. "But the point is, the service must be provided to the satisfaction of the DMHC."

According to CPEHN, Spanish is the No. 1 non-English language spoken by Californians, with 2.8 million speakers, followed by Chinese, with 265,000 speakers.

"The law says an enrollee is entitled to interpretive services at every point of contact they have, that's whether they are calling the plan, whether they are walking into a doctor's office, if they are going for an X-ray—so the interpretative services are much, much broader and would encompass virtually any language," Randolph said.

It might sound daunting, but accommodation is made possible by the economies of scale of using existing systems to handle calls from non-English speakers, Martinez said.

"It's not like you have to create a whole separate infrastructure for people who speak Armenian and one for people who speak Spanish," he said. "Once you contract with an interpreter service, you get multiple languages, so it's not as overwhelming as it sounds."

Language Surveys. One of the first things health plans had to do was assess the language needs and demographic profile of their entire membership. A survey to collect data on each individual enrollee language needs must have also been conducted.

The network has been closely monitoring its progress. Martinez said the group is concerned that some health plans aren't doing enough to adequately assess their enrollees' needs and notify them of their new rights.

"We've been having a real struggle with getting health plans and health insurers to send out notices in multiple languages to tell people [of their rights]," he said. "They have to send out some kind of information, but we're worried that A, it's just going to just get lost in the jumble of papers, and B, that there is a dispute over how many languages they have to notify people in."

He acknowledges that written translation is only required for the top language groups, but wonders how a person who speaks an infrequently used language will know they are entitled to interpreter services if documents only go out in Spanish and Chinese.

"So we've been having this legal argument that's been going back and forth," he said, noting the network will keep on health plans to get this issue resolved as their implementation plans are reviewed by DMHC.

Not everyone contacted by their commercial health plan was cooperative with the survey process, noted Kasabian-Evans of the CAHP.

"I know that they have heard from some members who are not comfortable with being asked their ethnicity and language preference. For so many years now we've not asked these kinds of questions," she said.

Health Net's Experience. Diana Carr, senior cultural and linguistic consultant for Health Net Inc., said the health plan did not send out a questionnaire, but did send out a notice to all members, inviting them to call the company and record their preferred written spoken language, and race and ethnicity if they wanted to. When people call the health plan's call center, customer service representatives also remind members to get their preferred language recorded.

The two top languages Health Net is required to accommodate are Spanish and Chinese. The work has begun to coordinate the printing of materials in those languages with all the various departments involved.

Compliance is made somewhat easier by the fact that a lot of culturally sensitive programs and language/interpreter services are already in place for those plans that deal with the Medi-Cal population. In addition, a state law that took effect in 1990 already mandates that medical interpreters be made available in hospitals at no cost to the patient.

Still, it's a tremendous task that requires all business units in charge of documents to know how to access interpreters in support of a member.

"We know what interpreter services look like, we have contracts in place, we know how to choose vendors, we know what quality criteria looks like, so we have the knowledge to act," Carr said. "But because it's being delivered for commercial lines of business, all of the business units that service these members are needing to implement the administrative services to mirror what we do for Medi-Cal and other state programs."

For interpreter services, Health Net is relying on contracted vendors that do phone-based interpretation. But an enrollee can also request an interpreter in person. There are some instances—such as a well woman exam—where the enrollee may not prefer in-person services. In all cases it comes down to the enrollee's preference.

"It really depends on the nature on where the member is and the nature of the point of contact," Carr said. "The primary way we'd prefer to meet is through telephone interpreter access, because it is not only more immediate, but you can get an interpreter in under five minutes and you'll have an interpreter who's qualified and also offers a wider range of languages in a very immediate access."

The interpreters are simply not just speakers versed in the language. "By law, they have to have healthcare-versed interpreters, they act as a culture broker, and they also have to have ethics training so HIPPA and privacy and confidentiality and all those things are respected as well," Carr added.

Kaiser Permanente An Old Pro. Kaiser Permanente, an integrated health system and HMO, has been providing language assistance services to its members and patients for many years

as part of its commitment to providing culturally competent care, said Kaiser Permanente spokeswoman Meg Walker. Its statewide project implementation team started gearing up for the new law in 2005 and 20 senior leaders from the health plan, hospitals and medical group were called in.

"Implementing the regulations has been a multi-year, multi-million dollar effort. The core project team overseeing this project is comprised of 30 staff members with hundreds more serving as key content experts and stakeholders," she said.

She said Kaiser Permanente has assessed the language preference of more than 95 percent of its members statewide. Like Health Net, its threshold languages for written materials are Spanish and Chinese.

"Over 600,000, or about 10 percent, of our membership has a stated preference for either of these two languages," she said. "For the past two years, we have been working to identify the hundreds of health plan vital documents that are subject to the language assistance requirements and to ensure that we have the processes and IT changes in place so that members will receive appropriate documents in the threshold languages."

As for interpreter services, Kaiser Permanente has evaluated and identified preferred translation vendors and also established a set of quality translation tools, which include standardized glossaries, style guides, translation memory, and editor checklists.

In addition, heath plan staff members who routinely come in contact with members are being trained in the use of language assistance through a comprehensive cultural and linguistics training curriculum.

Officials from both Health Net and Kaiser Permanente, while acknowledging the regulations are a tremendous and expensive task, say they are worthwhile in a state that is so culturally diverse.

"Hopefully as people get improved access to the basic benefits, they make better use of accessing the system," Carr said. "In other words, you get your regular checkups, you go for preventive care, you see your primary-care physician so you don't end up in the emergency room, you are better able to manage chronic diseases. A lot of the cost drivers are around chronic disease management. When language issue is a problem, chronic disease management is a problem. So we're looking to see how this all balances out."

Outlook. After years of delays, hearings and tweaking of regulations, it's finally do-or-die for California's HMO plans to put in place the most exhaustive commercial health plan language assistance requirements in the country. HMOs have invested millions of dollars so far on getting translation and interpretation services in order for the start of 2009, and fortunately many of the big plans have had some systems in place to comply with similar requirements for Medi-Cal. While it's an administrative feat, the positive effect may be that more people, unhindered by language barriers, start taking more control of their care management, thereby reducing costs of healthcare in the long run. ■